REMARKS

Receipt of the Office Action of July 6, 2010 is gratefully acknowledged.

Claims 11 - 19 and 21 have been examined in this RCE application, with the following results: claim 21 is indicated as being allowed; claims 11 - 18 are rejected under 35 USC 103(a) over Endress + Hauser in view of D'Angelico et al and Kawamura; and claim 19 is rejected under 35 USC 103(a) over Endress + Hauser in view of D'Angelico et al , Kawamura and Dual et al.

The indication of the allowance of claim 21 is sincerely appreciated.

The rejections of claims 11 - 19 are respectfully traversed.

In independent claim 11, a method is defined including a step of detecting reaction forces and/or reaction moments which act on the securement and which result from"asymmetry of the mechanical oscillating unit." Independent claim 12 , an apparatus is defined including a structuralized version of the limitation noted above. In independent claim 15, a measuring device is defined including a structuralized verrsion of the limitation noted above. The noted limitation both defined as a method step and structuralized as is seen in claims 12 and 15 distinguishes, it is respectfully submitted over the art of record, which lack a teaching of this limitation.

In Endress+Hauser (Liquiphant) there is taught a well known measuring device for determining and/or monitoring process variables as fill level, density or viscosity of a medium. Reaction moments acting on the securement and resulting from an asymmetry of the mechanical oscillating unit are not detected. Endress+Hauser gives no hint so that such a detection would be necessary or advantageous.

In D'Angelico (US 6389891 B1) there is taught that the tuning fork's oscillator bars should operate in opposite modes in order to minimize the stresses on the securement. That is a common state of the art. But this does not suggest detecting reaction forces in order to detect asymmetries, neither instead of measuring frequency during the manufacturing process, nor in order to monitor the symmetry of the oscillatable unit during the measurement process, which can be affected e.g. by corrosion of or adhesion on the oscillating unit.

In Kawamura (US 3760482) there is taught a method for adjusting the frequency of a tuning fork type vibrator. He teaches that the two tines can be balanced by removing portions of a root portion connecting the two tines. Portions are removed until the frequencies of the tines are equal. This patent is not at all relevant regarding the patentability of applicant's invention. First of all, Kawamura does not teach that a force detection unit is used for detecting an asymmetry of the oscillating tuning fork. Second, the vibrator described lacks a securement, so that no reaction forces acting on a securement can be detected. The vibrator cannot be connected to a securement, because this could only be done via the root portion and this would mean that it would no longer be possible to cut off portions of the root portion in order to achieve the desired frequencies.

The proposed combination of Endress+Hauser, D'Angelico and Kawamura does not lead to the invention as claimed in one of the claims 11, 12 or 15, as no reaction forces are measured.

In view of the foregoing, reconsideration and reexamination are respectfully requested and claims 11 - 19 found to be allowable along with allowed claim 21.

Respectfully submitted,

Date: October 6, 2010

Felix J. D'Ambrosio
Reg. No. 25,721

BACON & THOMAS, PLLC
625 Slaters Lane-4th Floor
Alexandria, VA 22314
Tel: (703) 683-0500
Fax: (703) 683-1080

S:\Producer\fjd\CLIENTS\Endress+Hauser Holding GmbH\LOPA3009-EH0670\Oct. 6, 2010 Response.wpd